

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION.**

CIVIL APPLICATION NO.4791 OF 2003.

IN

FIRST APPEAL ST.NO.41066 OF 2003.

Shyamala Dhananjay Vibhakar

& Anr. : Appellants.

versus

Shobhana Madhusudan Gandhi

& Anr. : Respondents.

Ms.Preeti Shah for the appellants.

Mr.Bhadang for the respondents.

CORAM : D.G.DESHPANDE, J.

DATED : 26th August 2005.

ORAL ORDER

1. Heard advocates for the appellants and respondents. This is an application for condonation of delay of 385 days. According to Mr.Bhadang, the advocate appearing for the

respondents, the delay is about 460 days. According to the appellants she was poor and not in a position to spend for the litigation, that is the cause of delay. This fact is contradicted by Mr.Bhadang and he contended that the appellant has been diligently prosecuting her case before the Small Causes Court. She had preferred an appeal against that order. Therefore, this shows that she can raise sufficient finance to file litigation.

2. In view of this opposition and objection, but looking to the issue involved i.e. dismissal of the appellants' suit under section 6 of the Specific Relief Act, delay is condoned subject to payment of costs of Rs.1000/- within two weeks from today. Payment of costs is a condition precedent. Put the appeal for admission thereafter. If the costs are not paid, the appeal shall stand dismissed.

[D.G.DESHPANDE, J]